

AMENDED IN SENATE AUGUST 2, 2010

AMENDED IN SENATE JUNE 2, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 2129**

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**Introduced by Assembly Member Bass**

February 18, 2010

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An act to amend Sections 18987.7 and 18987.72 of, *and to add Section 16524.5 and to*, the Welfare and Institutions Code, relating to foster care.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2129, as amended, Bass. Foster care: residentially based services.

Existing law provides for child welfare services, which are public social services directed toward, among other purposes, protecting and promoting the welfare of all children, including those in foster care placement. Existing law provides for the placement of children in foster care in various settings, including group homes, by foster placement agencies, under the oversight of the State Department of Social Services.

Existing law provides for the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which, pursuant to a combination of federal, state, and county funds, aid on behalf of eligible children is paid to foster care providers.

Existing law requires the department to convene a workgroup of designated public and private stakeholders that will develop a plan for transforming the current system of group care for foster children or youth, and for children with serious emotional disorders into a system of residentially based services, as defined. Existing law requires the

department, by January 1, 2011, to provide a copy of the plan developed by the workgroup to the Legislature.

This bill would extend the deadline for providing a copy of the plan developed by the workgroup to the Legislature to July 1, 2014.

*Existing law authorizes the Child Welfare Services Program Improvement Fund to provide a comprehensive system of support to promote positive outcomes for children and families, by expending funds on various programs, upon appropriation by the Legislature.*

*This bill would allow the State Department of Social Services to fund various child welfare-related activities by means of grants from the fund, rather than by contract. This bill would also allow certain grants to be renewed, as specified.*

Existing law requires the department to encourage counties and private nonprofit agencies to develop voluntary agreements to test alternative program design and funding models to achieve specified objectives, and authorizes voluntary agreements between counties and nonprofit agencies to transfer all or part of an existing group home program into a residentially based services program, if specified conditions are met. Under existing law, these agreements are valid for a period not to exceed 5 years from January 1, 2008.

Existing law authorizes the department to waive otherwise applicable regulatory provisions and approve alternative funding models, in order to facilitate implementation of these agreements, and specifies the required characteristics of these alternative funding models. Under existing law, a waiver granted by the director under these circumstances, and the related alternative funding model, is prohibited from resulting in an increase in costs to the General Fund for AFDC-FC payments, measured on an annual basis.

This bill would revise requirements relating to the waivers and alternative funding models, to authorize higher AFDC-FC payments to children and youth enrolled in a residentially based services program, that are offset by cost efficiencies.

This bill would require the department to conduct reviews of the county residentially based services program, within 18 months of the first child's enrollment into the program, to determine the effectiveness of the program, as specified. The bill would authorize the department to terminate a county's participation in residentially based services reform if it determines that the county is not meeting specified objectives.

This bill would require agreements entered into pursuant to the residentially based services reform provisions to terminate on or before January 1, 2015.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 16524.5 is added to the Welfare and*  
2     *Institutions Code, to read:*

3     16524.5. (a) *The State Department of Social Services may*  
4     *fund the various activities authorized pursuant to Section 16524*  
5     *by means of grants rather than contracts. The grants shall not be*  
6     *subject to the review specified in Section 10295 of the Public*  
7     *Contract Code.*

8     (b)

9     *The department may renew grants for the various activities*  
10    *authorized pursuant to Section 16524 that exceed three years in*  
11    *duration if the grant is reviewed annually and the grantee is found*  
12    *to be satisfactorily meeting the grant objectives.*

13    ~~SECTION 1.~~

14    *SEC. 2. Section 18987.7 of the Welfare and Institutions Code*  
15    *is amended to read:*

16    18987.7. (a) *The State Department of Social Services shall*  
17    *convene a workgroup of public and private nonprofit stakeholders*  
18    *that shall develop a plan for transforming the current system of*  
19    *group care for foster children or youth, and for children with*  
20    *serious emotional disorders (SED), into a system of residentially*  
21    *based services. The stakeholders may include, but not be limited*  
22    *to, representatives of the department and of the State Department*  
23    *of Mental Health, the State Department of Education, the State*  
24    *Department of Alcohol and Drug Programs, and the Department*  
25    *of Corrections and Rehabilitation; county child welfare, probation,*  
26    *mental health, and alcohol and drug programs; local education*  
27    *authorities; current and former foster youth, parents of foster*  
28    *children or youth, and children or youth with SED; private*  
29    *nonprofit agencies operating group homes; children's advocates;*  
30    *and other interested parties.*

31    (b) *The plan developed pursuant to this chapter shall utilize the*  
32    *reports delivered to the Legislature pursuant to Section 75 of*

Chapter 311 of the Statutes of 1998 by the Steering Committee for the Reexamination of the Role of Group Care in a Family-Based System of Care in June 2001 and August 2002, and the “Framework for a New System for Residentially-Based Services in California” published in March 2006.

(c) In the development, implementation, and subsequent revisions of the plan developed pursuant to subdivision (a), the knowledge and experience gained by counties and private nonprofit agencies through the operation of their residentially based services programs created under voluntary agreements made pursuant to Section 18987.72, including, but not limited to, the results of evaluations prepared pursuant to paragraph (3) of subdivision (b) of Section 18987.72 shall be utilized.

(d) By July 1, 2014, the department shall provide a copy of the plan developed by the workgroup pursuant to subdivision (a) to the Legislature. The plan shall include, in addition to other requirements set forth in this chapter, any statutory revisions necessary for its implementation.

~~SEC. 2.~~

*SEC. 3.* Section 18987.72 of the Welfare and Institutions Code is amended to read:

18987.72. (a) In order to obtain knowledge and experience with which to inform the process of developing and implementing the plan for residentially based services, required by Section 18987.7, the department shall encourage counties and private nonprofit agencies to develop voluntary agreements to test alternative program design and funding models for transforming existing group home programs into residentially based services programs in order to meet the diverse needs of children or youth and families in the child welfare, juvenile justice, and mental health systems.

(b) (1) With the approval of the department, any counties participating in the federal Title IV-E waiver capped allocation demonstration project pursuant to Section 18260, at their option, and two other counties may enter into and implement voluntary agreements with private nonprofit agencies to transform all or part of an existing group home program into a residentially based services program.

(2) If one or more counties participating in the federal Title IV-E waiver capped allocation demonstration project opts not to

1 enter into a voluntary agreement pursuant to this chapter, the  
2 department may select one or more nonwaiver counties. The  
3 department may approve up to four counties to participate in the  
4 voluntary agreements pursuant to this section.

5 (3) The department shall select participating counties, based on  
6 letters of interest submitted to the department from counties, in  
7 consultation with the California Alliance of Child and Family  
8 Services and the County Welfare Directors Association.

9 (c) Voluntary agreements by counties and nonprofit agencies  
10 shall satisfy all of the following requirements:

11 (1) Incorporate and address all of the components and elements  
12 for residentially based services described in the “Framework for  
13 a New System for Residentially-Based Services in California.”

14 (2) Reflect active collaboration among the private nonprofit  
15 agency that will operate the residentially based services program  
16 and county departments of social services, mental health, or  
17 juvenile justice, alcohol and drug programs, county offices of  
18 education, or other public entities, as appropriate, to ensure that  
19 children, youth, and families receive the services and support  
20 necessary to meet their needs.

21 (3) Provide for an annual evaluation report, to be prepared  
22 jointly by the county and the private nonprofit agency. The  
23 evaluation report shall include analyses of the outcomes for  
24 children and youth, including achievement of permanency, average  
25 lengths of stay, and rates of entry and reentry into group care. The  
26 evaluation report shall also include analyses of the involvement  
27 of children or youth and their families, client satisfaction, the use  
28 of the program by the county, the operation of the program by the  
29 private nonprofit agency, payments made to the private nonprofit  
30 agency by the county, actual costs incurred by the nonprofit agency  
31 for the operation of the program, and the impact of the program  
32 on state and county AFDC-FC program costs. The county shall  
33 send a copy of each annual evaluation report to the director, and  
34 the director shall make these reports available to the Legislature  
35 upon request.

36 (4) Permit amendments, modifications, and extensions of the  
37 agreement to be made, with the mutual consent of both parties and  
38 with approval of the department, based on the evaluations described  
39 in paragraph (3), and on the experience and information acquired  
40 from the implementation and the ongoing operation of the program.

1 (5) Be consistent with the county's system improvement plan  
2 developed pursuant to the California Child Welfare Outcomes and  
3 Accountability System.

4 (d) (1) Upon a county's request, the director may waive child  
5 welfare regulations regarding the role of counties in conjunction  
6 with private nonprofit agencies operating residentially based  
7 services programs to enhance the development and implementation  
8 of case plans and the delivery of services in order to enable a  
9 county and a private nonprofit agency to implement an agreement  
10 described in subdivision (b). Nothing in this section shall be  
11 construed to supersede the requirements set forth in subdivision  
12 (c) of Section 16501.

13 (2) Notwithstanding Sections 11460 and 11462, or any other  
14 law or regulation governing payments under the AFDC-FC  
15 program, upon the request of one or more counties, and in  
16 accordance with the voluntary agreements as described in  
17 subdivision (b), the director may also approve the use of up to a  
18 total of five alternative funding models for determining the method  
19 and level of payments that will be made under the AFDC-FC  
20 program to private nonprofit agencies operating residentially based  
21 services programs in lieu of using the rate classification levels and  
22 schedule of standard rates provided for in Section 11462. These  
23 alternative funding models may include, but shall not be limited  
24 to, the use of cost reimbursement, case rates, per diem or monthly  
25 rates, or a combination thereof. An alternative funding model shall  
26 do all of the following:

27 (A) Support the values and goals for residentially based services,  
28 including active child and family involvement, permanence,  
29 collaborative decisionmaking, and outcome measurement.

30 (B) Ensure that quality care and effective services are delivered  
31 to appropriate children or youth at a reasonable cost to the public.

32 (C) Ensure that payment levels are sufficient to permit the  
33 private nonprofit agencies operating residentially based services  
34 programs to provide care and supervision, social work activities,  
35 parallel predischarge community-based interventions for families,  
36 and followup postdischarge support and services for children and  
37 their families, including the cost of hiring and retaining qualified  
38 staff.

39 (D) Facilitate compliance with state requirements and the  
40 attainment of federal and state performance objectives.

1 (E) Control overall program costs by providing incentives for  
2 the private nonprofit agencies to use the most cost-effective  
3 approaches for achieving positive outcomes for the children or  
4 youth and their families.

5 (F) Facilitate the ability of the private nonprofit agencies to  
6 access other available public sources of funding and services to  
7 meet the needs of the children or youth placed in their residentially  
8 based services programs, and the needs of their families.

9 (G) Enable the combination of various funding streams  
10 necessary to meet the full range of services needed by foster  
11 children or youth in residentially based services programs, with  
12 particular reference to funding for mental health treatment services  
13 through the Medi-Cal Early and Periodic Screening, Diagnosis,  
14 and Treatment program.

15 (H) Maximize federal financial participation, and mitigate the  
16 loss of federal funds, while ensuring the effective delivery of  
17 services to children or youth and families, and the achievement of  
18 positive outcomes.

19 (I) Provide for effective administrative oversight and  
20 enforcement mechanisms in order to ensure programmatic and  
21 fiscal accountability.

22 (3) A waiver granted by the director pursuant to paragraph (1),  
23 or an approval of an alternative funding model pursuant to  
24 paragraph (2), shall be applicable only to the development,  
25 implementation, and ongoing operation of a residentially based  
26 services program and related county activities provided under the  
27 terms of the agreement and for the duration of the agreement, and  
28 shall be granted only when all of the following apply:

29 (A) The agreement promises to offer a worthwhile test related  
30 to the development, implementation, and ongoing operation of a  
31 residentially based services program as described in this chapter.

32 (B) Existing regulatory provisions or the existing AFDC-FC  
33 payment requirements, or both, impose barriers for the effective,  
34 efficient, and timely implementation of the agreement.

35 (C) The requesting county proposes to monitor the agreement  
36 for compliance with the terms of the waiver or the alternative  
37 funding model, or both.

38 (D) Notwithstanding any change to payments made to group  
39 homes under Section 11462, the department may pay higher  
40 AFDC-FC payments for children and youth who are enrolled in a

1 residentially based services program, to be offset by cost  
2 efficiencies achieved through shorter lengths of stay in foster care,  
3 or a reduction of reentries into foster care, as a result of providing  
4 pre-discharge support and post-discharge services to the children or  
5 youth and their families. Any upfront costs for this project shall  
6 be offset by other program savings identified by the department,  
7 to ensure that there are no net General Fund costs in each fiscal  
8 year.

9 (e) The department shall conduct a review of the county  
10 residentially based services program, no sooner than 18 months  
11 after the first child is enrolled in the program, to determine whether  
12 children are moving from residentially based services group  
13 residential care facilities into lower levels of care or exiting from  
14 foster care to permanent families in a timely manner, as described  
15 in the county's approved residentially based services plan. With  
16 60 days advance notice to the county, the department may terminate  
17 the county's participation in the residentially based services reform  
18 project if it determines, based on its review, that the county is not  
19 achieving timely movement from residentially based services group  
20 residential care facilities into lower levels of care or exits from  
21 foster care to permanent families with associated savings.

22 (f) In addition to the requirements set forth in subdivision (c),  
23 the voluntary agreements shall do all of the following:

24 (1) Provide that, to the extent that some of the care, services,  
25 and other activities associated with a residentially based services  
26 program operated under an agreement described in subdivision  
27 (b) are not eligible for federal financial participation as foster care  
28 maintenance payments under Part E (commencing with Section  
29 470) of Title IV of the federal Social Security Act (42 U.S.C. Sec.  
30 670 et seq.), but may be eligible for federal financial participation  
31 as administration or training, or may be eligible for federal financial  
32 participation under other programs, including, but not limited to,  
33 Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396  
34 et seq.), the appropriate state departments shall take measures to  
35 obtain that federal funding.

36 (2) Provide that, prior to approving any waiver or alternative  
37 funding model pursuant to subdivision (d), the director shall make  
38 a determination that the design of the residentially based services  
39 program to be operated under the agreement described in



1 subdivision (b) would ensure the health and safety of children or  
2 youth to be served.

3 (g) Agreements entered into pursuant to this section shall  
4 terminate on or before January 1, 2015, unless a later enacted  
5 statute extends or removes this limitation.

6 (h) The department shall report during the legislative budget  
7 hearings on the status of any county agreements entered into  
8 pursuant to subdivision (b), and on the development of statewide  
9 residentially based services programs.

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